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By: Rebecca M. Whitelock

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Umesh MAHESHWARI et al.	Group Art Unit: 2132
Application No.: 09/617,148	Examiner: GURSHMAN, Grigory
Filed: July 17, 2000	Confirmation No.: 8115
For: TRUSTED STORAGE SYSTEMS AND METHODS	

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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action dated March 1, 2005 ("Final Office Action"). This Request is being filed concurrently with a Notice of Appeal.

I. Requirements For Submitting a Pre-Appeal Brief Request for Review

Applicants may request a pre-appeal brief review of rejections set forth in an Office Action if (1) the application has been at least twice rejected; (2) Applicants concurrently file the Request with a Notice of Appeal and prior to an Appeal Brief; and (3) Applicants submit a Pre-Appeal Brief Request for Review that is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. *See* Official Gazette Notice, July 12, 2005. Applicants have met each of these requirements and therefore request review of the Examiner's rejections in the Final Office Action for the reasons set forth below. The arguments raised below are not a comprehensive set of Applicants' objections to the Final

Office Action, and Applicants reserve the right to raise additional arguments on appeal, including arguments that could have been raised here.

Each of the pending independent claims is addressed below. To the extent certain dependent claims are not specifically addressed, Applicants respectfully submit that these dependent claims are allowable for at least the reasons set forth in connection with the corresponding independent claims.

II. The Examiner Committed Clear Errors of Fact in Rejecting Claim 1 as Obvious in view of Barton and Honsinger

The Examiner clearly erred in finding that Barton teaches the encryption of **both** a block of data and related metadata, as recited in claim 1. *See* June 4, 2004 Office Action at paragraph 8, 4th sentence; Final Office Action at paragraph 2, last sentence. Contrary to the Examiner's assertion in the Final Office Action, embedding an encrypted bit string in an unencrypted data block is not the same as encrypting the data block itself. *See* Final Office Action at paragraph 4; *see also* Applicants' December 6, 2004 Response at page 12, 3rd paragraph. Indeed, the portion of Barton cited by the Examiner indicates that the "digital bit stream must be permanently marked with embedded meta-data ... **without altering the underlying data format**." *See* USP 5,646,997, at column 3, lines 23-27.

The Examiner also clearly erred in finding that Honsinger teaches the calculation of a hash of metadata. *See* June 4, 2004 Office Action at paragraph 8, last sentence; and paragraph 9. As Applicants pointed out at page 13, 1st paragraph of their December 6, 2004 Response, the use of metadata containing the hash of a content object, as taught by Honsinger, is not the same as calculating a hash of the metadata itself, as recited in claim 1. The Final Office Action does not address this argument; instead it simply repeats the Examiner's previous argument. *See* Final Office Action at paragraph 11; *see also* Final Office Action at paragraph 5.

III. The Examiner Did Not Establish a *Prima Facie* Case of Obviousness In Rejecting Claims 11, 12, and 14 in view of Barton and Honsinger

Notwithstanding Applicants' position that the cited art does not teach the recitations of the rejected claims, as asserted by the Examiner, Applicants note that the Examiner also failed to establish a *prima facie* case of obviousness in rejecting at least claims 11, 12, and 14 in view of Barton and Honsinger.

The Examiner never addresses claim 12 (except to indicate that it is rejected), either in the June 4, 2004 Office Action, or in the Final Office Action that issued after Applicants pointed out this deficiency. *See* June 4, 2004 Office Action at paragraph 6; Final Office Action at paragraphs 2 and 8; *see also* Applicants' December 6, 2004 Response at page 13, 3rd paragraph.

The Examiner also fails to address each of the limitations of claims 11 and 14. Instead, the Examiner simply rejects claim 1, and then indicates that one of the elements recited in claims 11 and 14 ("indexing information") is allegedly taught by the cited art, but then fails to address the other elements contained in these claims. *See* June 4, 2004 Office Action at paragraphs 6-9 and 11; Final Office Action at paragraphs 2, 8-11, and 13.

Moreover, although the Examiner asserts that the "indexing information" recited in claims 11 and 14 is "met by the meta-data, which indexes the file (i.e., data block)," the Examiner does not identify the reference to which he is referring, or where that reference allegedly teaches this element. *See* June 4, 2004 Office Action at paragraph 11; Final Office Action at paragraph 13.

IV. The Examiner Committed Clear Errors of Fact in Rejecting Claim 7 as Obvious in view of Hagersten and Barton

The Examiner clearly erred in finding that Hagersten teaches a hierarchical map for locating individual data blocks, the map including, *inter alia*, one or more location indicators specifying the locations at which subordinate nodes or data blocks are stored. *See* June 4, 2004 Office Action at paragraphs 17-19; Final Office Action at paragraphs 19-21 (repeating previous arguments). Instead, the memory locations map described in Hagersten appears to be used simply to allocate memory amongst various processors in a multiprocessor system, and to resolve the various aliases that may be used by different processes to refer to the same memory location. *See* Applicants' December 6, 2004 Response at page 15, 2nd paragraph.

V. The Examiner Did Not Establish a *Prima Facie* Case of Obviousness In Rejecting Claims 7-10 in view of Hagersten and Barton

Notwithstanding Applicants' position that the cited art does not teach the recitations of the rejected claims, Applicants note that the Examiner also failed to establish a *prima facie* case of obviousness in rejecting at least claims 7-10 in view of Hagersten and Barton.

The Examiner never addresses claim 8 (except to indicate that it is rejected), either in the June 4, 2004 Office Action, or in the Final Office Action sent after Applicants pointed out this deficiency. Instead, the Final Office Action simply states that a "detailed explanation of how the prior art of record is applied to the claims [4-10] has been provided," without providing additional explanation. *See* Final Office Action at paragraph 6. *See also* Applicants' December 6, 2004 Response at page 16, 1st paragraph.

The Examiner also fails to address each of the limitations of claims 7, 9, and 10. *See also* June 4, 2004 Office Action at paragraphs 17-20; Final Office Action at paragraphs 19-22. For example, the Examiner does not specifically address the first and second node types recited in claim 7, much less each of the subordinate elements recited for each node type. *See* Applicants' December 6, 2004 Response at page 14, last paragraph through page 15, first paragraph. Similarly, the Examiner does not address the indicator recited in claim 9, or the additional node characteristics recited in claim 10. *See* Applicants' December 6, 2004 Response at page 16, 1st paragraph. *See also* June 4, 2004 Office Action at paragraph 20, last sentence; Final Office Action at paragraph 22, last sentence.

VI. Conclusion

Because the Examiner's rejection of the pending claims includes legal and factual deficiencies, Applicants are entitled to a pre-appeal brief review of the Final Office Action. And based on the foregoing arguments, Applicants request that the rejection of these claims be withdrawn and the claims allowed.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: September 1, 2005

By: _____
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